

Cuong Mach Binh Tieu
Reg. No. 91019-111
P.O. Box 800
Herlong, CA 96113

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED
2015 OCT 13 P 4:50
SUSAN Y. SOONG
CLERK US DISTRICT COURT
NO. DIST. OF CA.

CUONG MACH BINH TIEU, : MOTION UNDER 18 U.S.C. §3582 (c)(2)
MOVANT, :
VS. :
UNITED STATES OF AMERICA, : CRIM. NO. 3-11-CR-97-CRB
RESPONDENT. : CIVIL NO. _____

Comes now Cuong Mach Binh Tieu, Movant (hereinafter Tieu), and asks the court for a sentence reduction in light of the United States Sentencing Commission's ruling Amendment 782 applies retroactively effective November 1, 2015. This motion is based on the following:

First, Tieu is without funds to perfect this motion, and he asks the court to liberally construe this pleading.

A. STATEMENT OF JURISDICTION

1. Title 18 U.S.C. §3582 (c)(2) provides in relevant part:

In the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has been lowered by the Sentencing Commission pursuant to 28 U.S.C. §8994 (o) upon motion of the defendant... the Court may reduce the term of imprisonment, after considering the factors set forth in 18 U.S.C. §3553 (a) to the extent they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

II. APPLICABLE SENTENCING COMMISSION
POLICY STATEMENT(S)

In 1991, the Supreme Court gave the Sentencing Commission the authority to decide whether and to what extent its amendments that

reduce sentences are to be given retroactive effect. See Braxton v. United States, 114 L.Ed.2d 385, 111 S.Ct. 1854, 1858 (1991), and United States v. Coohy, 11 F.3d 97, (8th Cir. 1993).

Section 1B1.10. Reduction In Term of Imprisonment as a Result of Amended Guideline Range (Policy Statement) in part reads:

- (1) In General.--In a case in which a defendant is serving a term of imprisonment, and the guideline range applicable to that defendant has subsequently been lowered as a result of an amendment to the Guidelines Manual listed in subsection (d) below, the court may reduce the defendant's term of imprisonment as provided by 18 U.S.C. §3582 (C)(2). As required by 18 U.S.C. §3582 (C)(2), any such reduction in the defendant's term of imprisonment shall be consistent with this policy statement.

Subsection (d) Covered Amendments--Amendments covered by this policy statement are listed in Appendix C follows:

In so far as only amendment "782" is relevant to this pleading, only that amendment is referenced: "782 (subject to subsection (e)(1))".

Subsection (e)(1) reads:

(e) Special Instructions.--

- (1) This court shall not order a reduced term of imprisonment base on Amendment 782 unless the effective date of the court's order is November 1, 2015 or later.

III. THE INDICTMENT

On or about July 5, 2012 a 48 count indictment was filed in the Northern District of California charging multiple defendants in some 26 Racketeering Acts with violating 18 U.S.C. §1962 (d)-Conspiracy to conduct the affairs of a Racketeering Influenced Corrupt Organization, and with violating 18 U.S.C. §1962 (c)-Conducting the Affairs of a Racketeering Corrupt Organization.

IV. FACTS GERMANE TO THIS MOTION

Specifically, Tieu was charged as follows:

Count 1: Charged Conspiracy to Conduct the Affairs of a Racketeering Influenced Corrupt Organization in violation of 18 U.S.C. §1962 (d).

Count 2: Charged Conducting the Affairs of a Racketeering Corrupt Organization in violation of 18 U.S.C. §1962 (c).

Count 3: (21 U.S.C. §846: Conspiracy to Violate the Controlled Substances Act)

Between in or about February 2008 and in or April 2008, within the Northern District of California,

CUONG MACH BINH TIEU,
SKYLER CHANG,

and others known and unknown to the Grand Jury, knowingly and intentionally conspired to possess with intent to distribute and to distribute a controlled substance, namely 50 grams or more of methamphetamine, its salts, and salts of its isomers, and did aid and abet the same, in violation of 21 U.S.C. §§846, 841 (a)(1), and 18 U.S.C. §2.

Count 4: (21 U.S.C. §841 (a)(1): Possession with Intent to Distribute and Distribution of a Controlled Substance)

Between in or about February 2008 and in or about April 2008, within the Northern District of California,

CUONG MACH BINH TIEU,
SKYLER CHANG,

and others known and unknown to the Grand Jury, knowingly and intentionally possessed with intent to distribute and distributed a controlled substance, namely 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, and did aid and abet the same, in violation of 21 U.S.C. §841 (a)(1) and 18 U.S.C. §2.

Count 5: (21 U.S.C. §846: Conspiracy to Violate the Controlled Substances Act)

Between in or about March 2009 and in or about November 2009, in the Northern District of California,

CUONG MACH BINH TIEU,
SKYLER CHANG,

DING LIN,

and others known and unknown to the Grand Jury, knowingly and intentionally conspired unlawfully to possess and distribute a listed chemical, namely ephedrine, knowingly and having reasonable cause to believe that the listed chemical would be used to manufacture a controlled substance, namely methamphetamine, its salts, isomers, and salts of its isomers, and did aid and abet the same, in violation of 21 U.S.C. §§846, 841 (c)(2), and 18 U.S.C. §2.

Count 6: 21 U.S.C. §841 (c)(2): Possession and distribution of Listed Chemical to Manufacture a Controlled Substance)

Between in or about March 2009 and in or about November 2009, in the Northern District of California,

CUONG MACH BINH TIEU,
SKYLER CHANG,
DING LIN,

and others known and unknown to the Grand Jury, knowingly, and intentionally, and unlawfully possessed and distributed a listed chemical, namely ephedrine, knowing and having reasonable cause to believe that the listed chemical would be used to manufacture a controlled substance, namely methamphetamine, its salts, isomers, and salts of its isomers, and did aid and abet the same, in violation of 21 U.S.C. §841 (c)(2) and 18 U.S.C. §2.

Count 7: (21 U.S.C. §846: Conspiracy to Violate the Controlled Substances Act)

Between in or about March 2009 and in or about November 2009, in the Northern District of California,

CUON MACH BINH TIEU,
SKYLER CHANG,
DING LIN,

and others known and unknown to the Grand Jury, knowingly and intentionally conspired to manufacture a controlled substance, namely 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, and did aid and abet the same, in violation of 21 U.S.C. §§846, 841 (a)(1), and 18 U.S.C. §2.

Count 8: (21 U.S.C. §841 (a)(1): Manufacture of a controlled Substance)

Between in or about March 2009 and in or about

November 2009, in the Northern District of California,

**CUONG MACH BINH TIEU,
SKYLER CHANG,
DING LIN,**

and other known and unknown to the Grand Jury, knowingly and intentionally manufactured a controlled substance, namely methamphetamine, its salts, isomers, and salts of its isomers, and did aid and abet the same, in violation of 21 U.S.C. §841 (a)(1) and 18 U.S.C. §2.

Count 21: (21 U.S.C. §846: Conspiracy to Violate the Controlled Substances Act)

Between in or about February 2010, within the Northern District of California,

CUONG MACH BINH TIEU

and other known and unknown to the Grand Jury knowingly and intentionally conspired to possess with intent to distribute and to distribute a controlled substance, namely 5 kilograms or more of cocaine, and did aid and abet the same, in violation of 21 U.S.C. §§846, 841 (a)(1), and 18 U.S.C. §2.

Count 22: (21 U.S.C. §841 (a)(1): Possession with Intent to Distribute and Distribution of a Controlled Substance)

Between in or about February 2010 and in or about April 2010, within the Northern District of California,

CUONG MACH BINH TIEU

and others known and unknown to the Grand Jury knowingly and intentionally possessed with intent to distribute and distributed a controlled substance, namely 500 grams or more of cocaine, and did aid and abet the same, in violation of 21 U.S.C. §841 (a)(1) and 18 U.S.C. §2.

A review of the ten (10) counts, and the PSR, show that Tieu's sentence to 210 months confinement was predicated on his alleged involvement with drugs. He was charged, plead guilty, and sentenced for this charged activity.

A. THE PRESENTENCE INVESTIGATIVE REPORT

First, the PSR at pages 14, 15, 16, 17, and 18 (Exh. A-14, 15, 16, 17, and 18) under Racketeering Acts set forth eight Acts alleging Tieu's and others involvement in both the Conspiracy to Violate §1962 (d) and the substantive offense charged under §1962 (c). But the evidence adduced and admitted to by Tieu during the charge of Plea Hearing; supports involvement in the "drug" facet of the alleged RICO enterprise, not the loan sharking activity.

1. THE EIGHT RACKETEERING ACTS

66. Racketeering Act 1: Conspiracy to Possess with Intent to Distribute and Distribution of 50 Grams or More of Methamphetamine, 21 U.S.C. §§846, 841 (a)(1).

73. Racketeering Act 2: Conspiracy to Possess with Intent to Distribute and Distribution of Methamphetamine and Ephedrine, 21 U.S.C. §§846, 841 (a)(1).

80. Racketeering Act 3: Possess with Intent to Distribute and Distribution of MDMA, 21 U.S.C. §841 (a)(1).

94. Racketeering Act 5: Conspiracy to Possess with Intent to Distribute and Distribution of MDMA, 21 U.S.C. §§846, 841 (a)(1).

108. Racketeering Act 7: Conspiracy to Possess with Intent to Distribute and Distribution of MDMA, 21 U.S.C. §§846, 841 (a)(1).

115. Racketeering Act 8: Conspiracy to Possess with Intent to Distribute and Distribution of MDMA, 21 U.S.C. §§846, 841 (a)(1).

150. Racketeering Act 13: Conspiracy to Possess with Intent to Distribute and Distribution of MDMA, 21 U.S.C. §§846, 841 (a)(1).

A cursory review of the eight Racketeering Acts establish Tieu's activity as charged in the indictment clearly was drug related Racketeering Acts one (1), two (2), five (5), seven (7), eight (8), ten (10), and thirteen (13) were conspiracies. Racketeering Act three (3) Possession with intent to distribute and distribution of

MDMA. Also a substance noted at Racketeering Act 18 p. 19 PSR BZP was set forth with no drug amount - possession with intent to distribute.

2. DRUG TYPE/QUANTITY

a. METHAMPHETAMINE

The PSR at p. 13 of 58 reads in pertinent part:

"There are no laboratory testing results regarding the methamphetamine associated with this conduct. Charging documents provide for 200 grams of methamphetamine (Actual). Therefore, this amount will be used for guideline purposes..." Exh. B.

b. EPHEDRINE

Page 14 of 58 of the PSR reads in part:

"... there are no laboratory testing results regarding the cocaine associated with this conduct, therefore, this amount, as provided in charging documents, will be used for guideline purposes..." Exh. C.

c. COCAINE

Page 15 of 58 parag. 56 in significant part reads:

"... there are no laboratory testing results regarding the cocaine associated with the conduct; therefore, this amount, will be used for guideline purposes..." Exh. D.

Tieu is cognizant of the fact that all findings regarding drug type and quantity cannot be relitigated under 18 U.S.C. §3582 (c)(2) in determining drug amount for purposes of this motion in light of retroactive Amendment 782. But it has historical significance.

3. MULTIPLE COUNT ADJUSTMENT

Here under count one the conspiracy under 18 U.S.C. §1962 (d) the drug type and quantity were properly converted to there marijuana equivalent resulting in 255,000 kilograms of marijuana at a BOL of 38 with 4 points for leadership equals 42, and two points for increase

in offense level a BOL of 44 under multiple count adjustment (U.S.S.G. §3D1.4).

a. ACCEPTANCE OF RESPONSIBILITY

Under U.S.S.G. §3E1.1 (a) and (b) Tieu's BOL of 44 was decreased by 3 points for a final BOL of 41.

B. TIEU'S SENTENCING

The Court in fashioning a sentence for Tieu took into consideration the fact Tieu came into the court room and plead guilty; he did not have the benefit of a presentence report, and he should receive truly favorable consideration for those facts alone. So he should get a sentence that reflects some variance from the sentencing guideline. See Exh. E-28 (0054) Sen. Tran. Lines: 2/5.

B. PROGRAM REVIEW

Tieu has been involved in ongoing skills development and college level educational classes. For example, Tieu satisfactorily completed:

1. Core Power. See Exh.
2. 12 Hour Drug Education Class
3. Anger Management (Pending Certificate).
4. Parenting (Pending Certificate).

1. COLLEGE CLASSES

1. Basic Writing. Exhs. I and J.
2. Basic Mathematics. Exh. I and J.
3. Pre Algebra. Exhs. I and J.
4. Success in College. Exh. I and J.
5. Aid Appreciation. Exh. I and J.

2. CURRENT COLLEGE CLASSES

1. History - Pre Civil War. Exh. I
2. Introduction to Sociology Exh. I

C. RELEASE PLANS

Currently, Tieu's release date is set for _____. But he nonetheless provides the following information regarding his residence and employer.

Tieu will reside at 118 Agate Way Hercules, California 94547, and he will be employed as a body and fender man at LA Tech 2311 Rheem Ave. Richmond, California 94806, and at Dream Auto 720 San Pablo Ave. Pinole, California

V. AMENDMENT 782'S IMPACT
ON TIEU'S SENTENCE
(DISCUSSION)

First, the Court downward departed and set Tieu's BOL at 37 with a sentencing range of 292 months to 365, with a criminal history of IV (4). See Exh. F-p. 3 (0029) Sen. Tran.

At page 28 Exh. E lines 1 to 8 Sentencing Transcripts, the Court, as noted above (Exh. E), varied from the guidelines and imposed a 220 month concurrent sentences on Tieu. This translated into a BOL of 34 and a U.S.S.G. range of 210-262 months.

Second, it is Tieu's position that the Court varying from the guidelines does not preclude Tieu from being eligible for the two (2) point reduction under retroactive Amendment 782.

Here Tieu asks the Court in the exercise of its plenary power to except BOL 34 in that under the guidelines it comports with the Court's variance and imposition of a 220 month prison term on Tieu and in exercising its discretion in light of 782's two point reduction reset Tieu's BOL at 32 with an amended guideline sentencing range of 168-210 months at a criminal history of IV (4), and in sentencing him at the low end of the amended range impose a 168 month term of incarceration on Tieu.

IN CONCLUSION

WHEREFORE Cuong Binh Tieu prays that based on the foregoing the Court will issue an Order reducing his sentence in light of Amendment 782 to a BOL 32 and the low end of the amended guideline range of 168-210 to: 168 months, or any other relief this Court deems just and proper.

Respectfully signed and submitted this 30 day of September 2015.

Cuong Binh Tieu
Cuong Binh Tieu

CERTIFICATE OF MAILING

I, Cuong Binh Tieu, swear under penalty of perjury that I handed to F.C.I. prison officials to mail to the below listed parties in my behalf postage pre paid first class on September 30, 2015 the hereto attached motion under 18 U.S.C. §3582 (c)(2).

Assistant U.S. Attorney
1301 CLAY STREET STE. 340-S
OAKLAND CA 94612-5217

U.S. District Court
Attn: Clerk's Office
450 Golden Gate Ave.
San Francisco, CA 94102

Signed: Cuong Binh Tieu
Cuong Binh Tieu

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Ephedrine has the equivalency of 250,000 kilograms of marijuana, for a total of 250,400 kilograms. Pursuant to USSG §2D1.1(c)(1), 30,000 kilograms or more of marijuana has a base offense level of 38.

38

<u>Drug Name</u>	<u>Drug Quantity</u>	<u>Marihuana Equivalency</u>
Methamphetamine	200.0 g	400.0 kg
Ephedrine	25.0 kg	250000.0 kg
Total		250400.0 kg

75. Specific Offense Characteristics: None. 0
76. Victim Related Adjustment: 0
77. Adjustment for Role in the Offense: The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). +4
78. Adjustment for Obstruction of Justice: None. 0
79. Adjusted Offense Level (Subtotal): None. 42
80. Racketeering Act 3: Possess with Intent to Distribute and Distribution of MDMA, 21 U.S.C. § 841(a)(1) 21
81. Base Offense Level: The guideline for a violation of 21 U.S.C. § 841(a)(1) is found at the Drug Quantity Tables found at USSG §2D1.1(c). There is no listed quantity for the MDMA. According to USSG §2D1.1, comment. (n.10(D)), the minimum offense level is 12. 12
82. Specific Offense Characteristics: None. 0
83. Victim Related Adjustment: None. 0
84. Adjustment for Role in the Offense: The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). +4
85. Adjustment for Obstruction of Justice: None. 0
86. Adjusted Offense Level (Subtotal): 16
87. Racketeering Act 4: Extortionate Extension of Credit (\$5,000 loan on November 14, 2009) 16
88. Base Offense Level: The guideline for 18 U.S.C. § 892(a) offenses is found in USSG §2E2.1(a) of the guidelines, and provides for a base offense level 20. 20

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|--------|---|-----------|
| 89. | Specific Offense Characteristics: None. | <u>0</u> |
| 90. | Victim Related Adjustment: None. | <u>0</u> |
| 91. | Adjustment for Role in the Offense: The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). | <u>+4</u> |
| 92. | Adjustment for Obstruction of Justice: None. | <u>0</u> |
| 93. | Adjusted Offense Level (Subtotal): | <u>24</u> |
| ✓ 94. | <u>Racketeering Act 5</u> : Conspiracy to Possess with Intent to Distribute and Distribution of MDMA, 21 U.S.C. §§ 846, 841(a)(1) | |
| 95. | Base Offense Level: The guideline for a violation of 21 U.S.C. § 846 is found at the Drug Quantity Tables found at USSG §2D1.1(c). There is no listed quantity for the MDMA. According to USSG §2D1.1, comment. (n.10(D)), the minimum offense level is 12. | <u>12</u> |
| 96. | Specific Offense Characteristics: None. | <u>0</u> |
| 97. | Victim Related Adjustment: None. | <u>0</u> |
| 98. | Adjustment for Role in the Offense: The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). | <u>+4</u> |
| 99. | Adjustment for Obstruction of Justice: None. | <u>0</u> |
| 100. | Adjusted Offense Level (Subtotal): | <u>16</u> |
| 101. | <u>Racketeering Act 6</u> : Extortionate Extension of Credit (\$10,000 loan on October 20, 2009) | |
| 102. | Base Offense Level: The guideline for 18 U.S.C. § 892(a) offenses is found in USSG §2E2.1(a) of the guidelines, and provides for a base offense level 20. | <u>20</u> |
| 103. | Specific Offense Characteristics: None. | <u>0</u> |
| 104. | Victim Related Adjustment: None. | <u>0</u> |
| 105. | Adjustment for Role in the Offense: The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). | <u>+4</u> |
| 106. | Adjustment for Obstruction of Justice: None. | <u>0</u> |
| 107. | Adjusted Offense Level (Subtotal): | <u>24</u> |
| ✓ 108. | <u>Racketeering Act 7</u> : Conspiracy to Possess with Intent to Distribute and Distribution of MDMA, 21 U.S.C. §§ 846, 841(a)(1) | |

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109. Base Offense Level: The guideline for a violation of 21 U.S.C. § 846 is found at the Drug Quantity Tables found at USSG §2D1.1(c). There is no listed quantity for the MDMA. According to USSG §2D1.1, comment. (n.10(D)), the minimum offense level is 12. 12
110. Specific Offense Characteristics: None. 0
111. Victim Related Adjustment: None. 0
112. Adjustment for Role in the Offense: The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). +4
113. Adjustment for Obstruction of Justice: None. 0
114. Adjusted Offense Level (Subtotal): 16
115. Racketeering Act 8: Conspiracy to Possess with Intent to Distribute and Distribution of MDMA, 21 U.S.C. §§ 846, 841(a)(1)
116. Base Offense Level: The guideline for a violation of 21 U.S.C. § 846 is found at the Drug Quantity Tables found at USSG §2D1.1(c). There is no listed quantity for the MDMA. According to USSG §2D1.1, comment. (n.10(D)), the minimum offense level is 12. 12
117. Specific Offense Characteristics: None. 0
118. Victim Related Adjustment: None. 0
119. Adjustment for Role in the Offense: The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). +4
120. Adjustment for Obstruction of Justice: None. 0
121. Adjusted Offense Level (Subtotal): 16
122. Racketeering Act 9: Extortionate Extension of Credit (\$5,000 loan on January 14, 2010)
123. Base Offense Level: The guideline for 18 U.S.C. § 892(a) offenses is found in USSG §2E2.1(a) of the guidelines, and provides for a base offense level 20. 20
124. Specific Offense Characteristics: None. 0
125. Victim Related Adjustment: None. 0
126. Adjustment for Role in the Offense: The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). +4
127. Adjustment for Obstruction of Justice: None. 0

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| 148. | Adjustment for Obstruction of Justice: None. | <u>0</u> |
| 149. | Adjusted Offense Level (Subtotal): | <u>24</u> |
| ✓ 150. | <u>Racketeering Act 13</u> : Conspiracy to Possess with Intent to Distribute and Distribution of MDMA, 21 U.S.C. §§ 846, 841(a)(1) | |
| 151. | Base Offense Level: The guideline for a violation of 21 U.S.C. § 846 is found at the Drug Quantity Tables found at USSG §2D1.1(c). There is no listed quantity for the MDMA. According to USSG §2D1.1, comment. (n.10(D)), the minimum offense level is 12. | <u>12</u> |
| 152. | Specific Offense Characteristics: None. | <u>0</u> |
| 153. | Victim Related Adjustment: None. | <u>0</u> |
| 154. | Adjustment for Role in the Offense: The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). | <u>+4</u> |
| 155. | Adjustment for Obstruction of Justice: None. | <u>0</u> |
| 156. | Adjusted Offense Level (Subtotal): | <u>16</u> |
| 157. | <u>Racketeering Act 14</u> : Extortionate Extension of Credit (\$3,000 loan on April 29, 2010) | |
| 158. | Base Offense Level: The guideline for 18 U.S.C. § 892(a) offenses is found in USSG §2E2.1(a) of the guidelines, and provides for a base offense level 20. | <u>20</u> |
| 159. | Specific Offense Characteristics: None. | <u>0</u> |
| 160. | Victim Related Adjustment: None. | <u>0</u> |
| 161. | Adjustment for Role in the Offense: The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). | <u>+4</u> |
| 162. | Adjustment for Obstruction of Justice: None. | <u>0</u> |
| 163. | Adjusted Offense Level (Subtotal): | <u>24</u> |
| 164. | <u>Racketeering Act 15</u> : Extortionate Extension of Credit (\$5,000 loan on May 13, 2010) | |
| 165. | Base Offense Level: The guideline for 18 U.S.C. § 892(a) offenses is found in USSG §2E2.1(a) of the guidelines, and provides for a base offense level 20. | <u>20</u> |
| 166. | Specific Offense Characteristics: None. | <u>0</u> |
| 167. | Victim Related Adjustment: None. | <u>0</u> |

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31. THANH THE CHU worked with the enterprise at Oaks Card Club collecting illegal debts. He was employed by the casino as a floorman.
32. KWAI PING WONG was a loanshark at Artichoke Joe's Casino. He was employed by the casino as a floorman.
33. JOHN HIN YU CHEW worked with the enterprise at Artichoke Joe's Casino extending and collecting extortionate and illegal debts. He was employed by the casino as a floorman.
34. BAO TRAN was a loanshark at Artichoke Joe's Casino. He was employed by the casino as a tile dealer.
35. Regarding Cuong Mach Bin Tieu, the undersigned officer was provided discovery material that details the defendant's involvement in drug possession and distribution, primarily on three discrete narcotics transactions: (1) the sale of one pound of methamphetamine by Chang and Tieu to a cooperating witness in 2008; (2) Tieu's and Chang's purchase of 25 kilograms of ephedrine from cooperating witnesses in 2009 and their subsequent attempts to convert that ephedrine to methamphetamine; and (3) Tieu's charge in Counts Twenty One and Twenty Two with narcotics violations related to his role in a cocaine distribution conspiracy. Other members of the enterprise engaged in loansharking at the casinos, but Tieu is not believed to have played a major role in those activities. However, as a high level member of the enterprise, there is evidence that Tieu received a cut of the profits from the loansharking activity.

The Methamphetamine Transaction

36. On February 6, 2008, cooperating witnesses (CW-1 and CW-2) went to Artichoke Joe's to meet with Chang and obtain a sample of methamphetamine to conduct a purity sample of the drug. At this point, CW-1 was cooperating with the government, but CW-2 was not. No sample of methamphetamine was obtained at that time, but Chang later interacted with CW-1 and CW-2 on February 7, 2008, when a methamphetamine sample was tested and found to be of poor quality. Chang left with the sample. On February 21, 2008, CW-2 obtained additional methamphetamine at Artichoke Joe's at Chang's direction.
37. A couple months later, on April 22, 2008, Chang gave yet another methamphetamine sample to CW-2. By this point, a wiretap intercept was active on Chang's phone. Two days later, CW-1 set up a deal with CW-2 involving Chang for the purchase of one pound of methamphetamine. Chang communicated with Tieu about obtaining the methamphetamine. The deal eventually happened at Zesty's Restaurant (San Francisco) that evening while Tieu, Chang, CW-1, and CW-2, and others were present. A Tieu associate gave the methamphetamine to CW-1 in the parking lot of Zesty's while the others were inside.
38. On April 25, 2008, CW-1 paid Chang \$18,500 for the methamphetamine. A number of recorded phone calls, including intercepts on Chang's phone corroborate the deal, along with surveillance, including photographs of Chang receiving the money.
39. The next month, CW-1 met with Chang to discuss a second purchase of methamphetamine. Chang agreed and asked if CW-1 wanted two pounds instead. Chang

Exh. B-8

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also inquired about kilo prices for cocaine, and said "they" can move up to 100 kilograms of cocaine.

40. Approximately a week later, Chang called Tieu asking if an associate could meet Chang at Artichoke Joe's to conduct this second methamphetamine transaction. Chang received a call from the associate and Chang asked the associate to bring the "ticket" (methamphetamine) to Artichoke Joe's. After some delay the associate told Chang that "the stuff wasn't worth the money." Chang called Tieu and told Tieu "the girls weren't pretty," and the deal never occurred.

41. There are no laboratory testing results regarding the methamphetamine associated with this conduct. Charging documents provide for 200 grams of methamphetamine (actual). Therefore, this amount will be used for guideline purposes. It appears that the defendant acted as a manager or supervisor in this drug conspiracy that included five or more people, in that he supervised and/or directed drug activity that involved codefendants Lin and Chang, and several confidential witnesses.

The Ephedrine Transaction


42. On January 9, 2008, Chang discussed with CW-2 his plan to import methamphetamine precursors into the United States from China. Chang suggested using Motorcycle Madness (San Bruno, California) to import drug precursors in the parts. Chang flew to China on January 10, 2008, to look into the issue. This particular scheme never came to fruition.
43. On March 11, 2009, Chang met with CW-2 (who by this point was cooperating with the government) and an undercover agent at Houston's restaurant (San Francisco) to discuss the purchase and delivery of ephedrine to Chang on behalf of Tieu. When asked what the ephedrine was for, Chang pointed to a glass with ice cubes in it and tapped it, signaling "ice," the street name for methamphetamine. The discussion moved from using the undercover agent to transport precursors to having the undercover agent provide and transport the precursors himself. This conversation was recorded.
44. On April 23, 2009, Chang met with CW-2 who provided Chang with a 5 gram sample of ephedrine. Chang would not take the sample and said someone else would take it, but that never happened. On April 24, 2009, CW-2 met with Chang again to deliver the 5 gram sample of ephedrine. This time Chang accepted it. During this contact, Chang informed CW-2 that if CW-2 ever cooperated with the government against Chang, Chang would never stop looking for CW-2's family. While there was surveillance of the meeting, the audio recording malfunctioned.
45. On May 13, 2009, CW-2 met Chang to discuss Tieu's payment for the ephedrine. On May 26, 2009, Chang deposited \$3,500 into an undercover account as a deposit for 25 kilos of ephedrine, which was video recorded.
46. After additional discussion of the deal, on June 6, 2009, Chang provided CW-2 with a sample of three Ecstasy pills. Chang said that Tieu had made the Ecstasy sample with the ephedrine sample provided on April 24, 2009. On June 24, 2009, CW-2 had a conversation with Chang where Chang said that Tieu took \$30,000 from Oaks Card Club to pay for the 25 kilos of ephedrine.

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47. On June 30, 2009, the deal to deliver three buckets containing approximately 8.3 kilos each of ephedrine actually occurred. Chang gave an undercover agent \$26,500 as payment for the ephedrine in Union City, California (the initial deposit of \$3,500 having already been provided on May 26, 2009). A cooperating witness (CW-3, who at this point was not cooperating with the government) showed up on a motorcycle and took one bucket to an address in Hayward, California and later traveled to Dreams Auto Body (Pinole, California) to drop off a sample to Tieu. The government kept possession of the other two buckets in a storage facility in San Mateo, California until Tieu and his crew indicated that they were ready for them. GPS tracker devices built into the bucket indicated where it went. The next day, July 1, 2009, CW-2 met with Chang to discuss events of the prior day, which included a lengthy discussion about the delivery of the ephedrine along with Chang indicating that the money to pay for it came from a cash drawer at Oaks.
48. By July 20, 2009, it was becoming clear that Tieu and his associates were having trouble converting the ephedrine into methamphetamine. That day, CW-2 met with Chang who described problems with the chef cooking the methamphetamine and plans to possibly trade the ephedrine for cocaine instead.
49. Efforts to convert the ephedrine to methamphetamine did not cease, however. On July 28, 2009, Chang gave CW-2 a sample of methamphetamine that was made from the ephedrine. Chang advised that the reason everything was taking so long was that Tieu had to keep an eye on the chef and needed to get another cook. Some additional conversations relating to troubles converting the ephedrine to methamphetamine occurred thereafter. Tieu also contacted CW-4 (who was not then working with the government) for some advice about how to convert ephedrine to methamphetamine.
50. By November 2009, CW-2 was informed that Tieu was prepared to take delivery of the second and third buckets of ephedrine that he had purchased in late June. Surveilling agents observed Tieu and Chang meeting with each other at an unnamed restaurant. On November 10, 2009, the operation went forward. CW-2 met with Chang who instructed CW-2 to deliver the buckets to Tieu at LA Tech auto body shop (Richmond, California) before 5:00PM. CW-2 delivered the two remaining buckets of ephedrine there in Tieu's presence, although Tieu and CW-2 did not actually speak. CW-3 delivered the two buckets from the auto body shop to an associate of Tieu's in a McDonald's parking lot on Ocean Avenue (San Francisco). GPS tracker data from the buckets showed them going to vicinity of the McDonald's. The ephedrine was never recovered.
51.  There are no laboratory testing results regarding the ephedrine associated with this conduct. Therefore, 25 kilograms will be used for guidelines purposes. It appears that the defendant acted as a manager or supervisor in this drug conspiracy that included five or more people, in that he supervised and/or directed drug activity that involved codefendants Lin and Chang, and several confidential witnesses.

The Cocaine Conspiracy

52. In February 2010, Tieu asked CW-3 to pick up \$24,000 in cash from Oaks. Tieu said the money was for the purchase of 36 ounces of cocaine from one individual, but CW-3 suggested that he purchase the cocaine instead from CW-4 (at this point, neither CW-3

Exh. C-10

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nor CW-4 were working with the government). Tieu agreed and the two went to CW-4's office where CW-4 indicated that there was 3/4 of a kilogram of cocaine available for sale. Tieu said the quality appeared poor, but CW-3 purchased it from CW-4 anyway for \$11,000 using the money received from Oaks at Tieu's direction.

53. Tieu contacted CW-3 later that night to report that the cocaine was indeed of very poor quality. He instructed CW-3 to seek a full refund or a \$3,000 discount from CW-4 as a result. The next day, CW-3 met with CW-4 and CW-4 agreed to the \$3,000 discount. CW-4 said he was going to Los Angeles (where the source was) soon and would be coming back with two more kilos of cocaine. CW-3 believed that Tieu would be interested in purchasing it. A few days later, CW-4 returned with the 2 kilos of interest and Tieu and CW-3 met with CW-4 in CW-4's office again. Tieu believed the new cocaine to be of higher quality and purchased a kilo CW-3 took home at Tieu's direction. CW-3 paid \$12,000 for the cocaine from the cash received from Oaks (which, when the \$3,000 credit was factored in, came up to a total purchase price of \$15,000). Tieu and CW-3 told CW-4 that they would be interested in up to 10 kilograms per week if CW-4 could secure that much. Later at home, CW-3 divided up the kilo into four separately packaged quarter kilos. Tieu instructed CW-3 to deliver one quarter to a person in San Jose, California known as "the DMV guy" and another quarter to a woman he knew as "sister."
54. Later that day, Tieu called CW-3 to say that they would go ahead and purchase another kilo and to tell CW-4 to deliver it to Dreams Auto Body Shop. CW-4 did indeed deliver one kilo of cocaine to Tieu at Dreams Auto Body (Pinole, California). Tieu was less impressed with the quality of that kilo of cocaine, and instructed CW-3 to pick it up from him and return it to CW-4, which CW-3 did. Agents later recovered the two quarter kilos of separately packaged cocaine that had not been distributed from CW-3.
55. Around the same time, Tieu called CW-4 personally and asked if CW-4 still had the one kilo of cocaine that Tieu had returned. CW-4 said that particular kilo was unavailable, but another kilo was available. Tieu came by that day and picked up the kilo. The next day, Tieu paid CW-4 \$15,000 in \$100 bills for the cocaine. By the end of March 2010, Tieu informed CW-4 not to work with CW-3 anymore. Later, Tieu, an associate, and CW-4 agreed on a 10 kilogram cocaine purchase for \$230,000, but Tieu backed out at the last minute.
56. In total, Tieu is responsible for 5 kilograms of cocaine. There are no laboratory testing results regarding the cocaine associated with this conduct; therefore, this amount, as provided in charging documents, will be used for guideline purposes. It appears that the defendant acted as a manager or supervisor in this drug conspiracy that included five or more people, in that he supervised and/or directed drug activity that involved codefendants Lin and Chang, and several confidential witnesses.
57. There is no information available regarding the illegal loans involving the defendant. He did not provide any further information.

Victim Impact

58. This is a Title 21 offense and there is no identifiable victim.

Exh. D-11

1 to 365, and the government's recommendation is 360. I think a
2 sentence should be below that amount. I think, for a number
3 of considerations, and especially the fact that he did come
4 in, did plead guilty, did not have the benefit of a
5 presentence report, and should receive favorable
6 consideration, truly favorable consideration for those facts,
7 those facts alone. So he should get a sentence that reflects
8 some variance from the sentencing guidelines.

9 It should be greater than Skyler Chang's sentence, in
10 my view. I don't know that there's a particular magic to a
11 number. Nevertheless, I note that he's 42 years of age. That
12 he will forfeit his ability to grow up with his children. He
13 will forfeit his ability to be with his father, who's played
14 an enormously significant role in his life. And whatever
15 sentence I give to him, the punishment will reflect the fact
16 that he has been removed from society, one, for the protection
17 of society; two, for the punishment that he deserves; and
18 three, that the cost to him from a personal point of view will
19 be reflected by the fact that he has essentially been severed
20 from his family connections. And I take all that into account
21 in determining the appropriate sentence.

22 Accordingly, pursuant to the Sentencing Reform Act of
23 1984, it is the judgment of the Court that Cuong Mach, Binh
24 Tieu, also known as Steve, Hak Se Wui, Ah Keung, is hereby
25 commit it to custody of the Bureau of Prisons to be imprisoned

Connie Kuhl, Certified Realtime Reporter
Official Reporter - USDC (415) 431-2020

0054

Exh. E

1 There are objections to the manner in which the sentencing
2 guideline total offense level is calculated. The bottom line
3 on the objections is that it is the defendant's contention
4 that the appropriate adjusted offense level is 37 as distinct
5 from 41. The guideline range is 292 months to 365 months.

6 That's where we stand. I have reviewed the objections.
7 Is there anything that anybody wishes to say in addition to
8 what was said?

9 MR. WEGNER: Submitted on that point, your Honor.

10 THE COURT: Okay. So I'm going to sustain the
11 defendant's objections with the following changes: Paragraph
12 70, which -- Paragraph 70 of the presentence report that has a
13 four-point adjustment should be zero. Paragraph 72, which, as
14 a result of the Paragraph 70, would instead of being 38, would
15 be 34. Paragraph 77, which has a four-point adjustment,
16 should be a two-point adjustment. And therefore Paragraph 79,
17 which is 42, would then be 40. Paragraph 133, which is a
18 four-point adjustment, should be a two-point adjustment.
19 Paragraph 135, which is 36, should be 34.

20 I am going to group the drug racketeering acts, all the
21 drug racketeering acts as a -- grouped together, and therefore
22 they would be consolidated with respect to Paragraphs 73
23 through 79. Accordingly, the adjusted offense level would be
24 37; with a guideline range of 292 months to 365 months.

25 Those are the findings with respect to the sentencing

Connie Kuhl, Certified Realtime Reporter
Official Reporter - USDC (415) 431-2020

0029

Exh. F-3(0029)

CERTIFICATE OF ACHIEVEMENT

FCI HERLONG RECREATION DEPARTMENT

This Certifies That

TIEU

Has successfully completed the following class

Core Power

This certificate is hereby issued January, 5th 2014

R. Carruth

R. Carruth, Supervisor of Recreation

G. Votaw

G. Votaw, Sports Specialist

Exh. G

CUONG TIEU

91019-111

Has Successfully Completed

12 Hour Drug Education Class

FCI Herlong, California

December 31, 2013

D. Rodriguez DTS

D. Rodriguez, Drug Treatment Specialist



Exh. H

PAGE 001 OF 001 * INMATE EDUCATION DATA * 09-24-2015
TRANSCRIPT * 11:08:51

REGISTER NO: 91019-111 NAME...: TIEU FUNC: PRT
FORMAT.....: TRANSCRIPT RSP OF: HER-HERLONG FCI

----- EDUCATION INFORMATION -----

FACL	ASSIGNMENT	DESCRIPTION	START DATE/TIME	STOP DATE/TIME
HER	ESL HAS	ENGLISH PROFICIENT	02-20-2013 0855	CURRENT
HER	GED HAS	COMPLETED GED OR HS DIPLOMA	03-09-2013 1223	CURRENT

----- EDUCATION COURSES -----

SUB-FACL	DESCRIPTION	START DATE	STOP DATE	EVNT	AC	LV	HRS
HER	HIST16-PRE CIVIL WAR-LCC	08-17-2015	CURRENT				
HER	INTRO TO SOC-LCC	08-17-2015	CURRENT				
HER	ACE NUTRITION & MEALS (RPP 1)	08-29-2015	08-29-2015	P	C	P	2
HER	ART APPRECIATION-LCC	01-08-2015	05-22-2015	C	C	P	0
HER	COUNSELING GUIDANCE-LCC	01-08-2015	05-22-2015	C	C	P	0
HER	NATL FED PERSONAL TRNG	01-18-2015	03-28-2015	P	C	P	30
HER	MATH 102-LCC	08-18-2014	12-19-2014	C	C	P	0
HER	MATH 101-LCC	01-13-2014	05-23-2014	C	C	P	0
HER	BASIC WRITING-LCC	01-13-2014	05-23-2014	C	C	P	0

G0000 TRANSACTION SUCCESSFULLY COMPLETED

Exh. J



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LASSEN COMMUNITY COLLEGE

SUSANVILLE

06/22/15

Official Transcript

Page 1 of 1

Name: Cuong M.B Tieu 91019-111
ID Number: 1108878

SSN: XXX-XX-0276
Birth Date: 12/31/69

CSU GE CAN	Description	Course & Number	Units Att	Units Comp	Grade	Points	GPA
* * * 2014 SPRING * * *							
	Basic Writing	ENGL 102	3.0	3.0	B	9.0	
	Basic Mathematics	MATH 101	2.0	2.0	A	8.0	
	Success in College	CG 1	< 3.0 >	0.0	W	0.0	
			5.0	5.0		17.0	3.400
	Cumulative Total:		5.0	5.0		17.0	3.400
* * * 2014 FALL * * *							
	Pre-Algebra	MATH 102	2.0	2.0	B	6.0	
			2.0	2.0		6.0	3.000
	Cumulative Total:		7.0	7.0		23.0	3.286
* * * 2015 SPRING * * *							
C1	Success in College	CG 1	3.0	3.0	A	12.0	
	Art Appreciation	ART 8	3.0	3.0	A	12.0	
			6.0	6.0		24.0	4.000
	Cumulative Total:		13.0	13.0		47.0	3.615
Vice Presidential Honors							
L.C.C.D. Cumulative totals:			13.0	13.0		47.0	3.615
Degree Applicable totals:			6.0	6.0		24.0	4.000

Academic Standing:
* Vice Presidential Honors

Exh. J

Certificate of Completion

The Education Department of FCI Herlong

Certifies that

Cuong Tieu

Has successfully completed the following 2 hour Adult Continuing Education course:

Nutrition and Meal Planning

This certificate is issued the 29th of August 2015

J. Anderson

J. Anderson
A.C.E Coordinator

Mrs. Lynn

Mrs. Lynn
Supervisor of Education